APPENDIX

Revenue Act of 1928, c. 852, 45 Stat. 791:

SEC. 413. CLUB DUES TAX.

(a) Section 501 of the Revenue Act of 1926 is amended to read as follows:

"SEC. 501. (a) There shall be levied, assessed, collected, and paid a tax equivalent to 10 per centum of any amount paid—

"(1) As dues or membership fees to any social, athletic, or sporting club or organization, if the dues or fees of an active resident annual member are in excess of $25 per year; or

"(2) As initiation fees to such a club or organization, if such fees amount to more than $10, or if the dues or membership fees, not including initiation fees, of an active resident annual member are in excess of $25 per year.

"(b) Such taxes shall be paid by the person paying such dues or fees.

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SEC. 414. RETURNS OF ADMISSIONS AND DUES TAX.

(a) Section 502 (a) of the Revenue Act of 1926 is amended by striking out "monthly returns" and inserting in lieu thereof "returns".

(b) Section 502 (b) of such Act is amended by striking out "monthly return" and inserting in lieu thereof "return".

Treasury Regulations 43 (revised June, 1932), promulgated pursuant to the Revenue Act of 1926, as amended by the Revenue Acts of 1928 and 1932:

ART. 35. DETERMINATION OF CHARACTER OF CLUB.—The Act includes not only "clubs" but also "organizations" of a social, athletic, or sporting character. The purposes and activities of a club and *not its name* determine its character for the purpose of the tax. Every club or organization having social, athletic, or sporting features is presumed to be included within the meaning of the phrase, "any social, athletic, or sporting club or organization," until the contrary has been proved, and the burden of proof is upon it. Every such club or organization, therefore, unless it falls within the express exemption of the Act (see art. 38), must collect, return, and pay over the tax imposed by the Act, unless and until it has satisfied the Commissioner of Internal Revenue that it is not in fact "social, athletic, or sporting" within the meaning of the Act and as defined in these regulations. If any such club or organization claims that it is not in fact "social, athletic, or sporting," it shall submit to the collector its charter or constitution and by-laws, together with a statement showing its actual purposes, activities, practices, and facilities, the character of its expenditures, and such other evidence as may be requested. Upon consideration of the evidence submitted the collector will determine, if he can do so, whether or not such club or organization is included within the provisions of the Act. If, however, the collector is in doubt as to whether or not the club or organization is "social, athletic, or sporting," he will refer the statement and accompanying papers to the Commissioner for decision. When a club or organization has been held not to be a "social, athletic, or sporting" club or

organization it need not thereafter make a return or any further showing with respect to its status under the law, unless it changes the character of its organization or operations or the purpose for which it was originally created. Collectors will keep a list of all clubs or organizations held not to be "social, athletic, or sporting" clubs or organizations, to the end that they may occasionally inquire into their status and ascertain whether or not they are observing the conditions upon which their exemption is predicated. If the collector decides that the club or organization is included within the provisions of the Act and the club or organization is not satisfied with his decision, it may request that the matter be referred to the Commissioner of Internal Revenue at Washington for a ruling.

ART. 36. SOCIAL CLUBS.—Any organization which maintains quarters or arranges periodical dinners or meetings, for the purpose of affording its members an opportunity of congregating for social intercourse, is a "social * * * club or organization" within the meaning of the Act, unless its social features are not a material purpose of the organization but are subordinate and merely incidental to the active furtherance of a different and predominant purpose, such as, for example, religion, the arts, or business. The tax does not attach to dues or fees of a religious organization, chamber of commerce, commercial club, trade organization, or the like, merely because it has incidental social features, but, if the social features are a material purpose of the organization, then it is a "social * * * club or organization" within the meaning of the Act. An organization that

has for its exclusive or predominant purpose religion or philanthropic social service (or the advancement of the business or commercial interests of a city or community) is clearly not a "social * * * club or organization." Most fraternal organizations are in effect social clubs, but if they are operating under the lodge system, or are local fraternal organizations among the students of a college or university, payments to them are expressly exempt.

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